

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

DENNIS C. PAYNE and SUSAN  
PAYNE,

Plaintiffs,

v.

ABB, INC., et al.,

Defendants.

No. 2:20-cv-01198-TLN-AC

DENNIS C. PAYNE and SUSAN  
PAYNE,

Plaintiffs,

v.

TRIPLE A MACHINE SHOP, INC.,

Defendant.

No. 2:22-cv-00939-JAM-KJN

**RELATED CASE ORDER**

Plaintiffs filed a Notice of Related Cases on July 15, 2022. (ECF No. 121.) Examination of the above-captioned actions reveals they are related within the meaning of Local Rule 123 (E.D. Cal. 1997). Pursuant to Rule 123 of the Local Rules of the United States District Court for the Eastern District of California, two actions are related when they involve the same parties and are based on the same or similar claim(s); when they involve the same transaction, property, or

1 event; or when they “involve similar questions of fact and the same question of law and their  
2 assignment to the same Judge . . . is likely to effect a substantial savings of judicial effort.” L.R.  
3 123(a). Further,

4 [i]f the Judge to whom the action with the lower or lowest number  
5 has been assigned determines that assignment of the actions to a  
6 single Judge is likely to effect a savings of judicial effort or other  
economies, that Judge is authorized to enter an order reassigning all  
higher numbered related actions to himself or herself.

7 L.R. 123(c).

8 The instant actions are related because they involve the same Plaintiffs requesting  
9 damages for the same injuries (mesothelioma and loss of consortium). Additionally, Defendants  
10 in the current action and the related action are each potentially liable for Plaintiffs’ injuries, as all  
11 Defendants in both actions are alleged to be responsible for exposing Plaintiff Dennis Payne to  
12 asbestos during his time in the California Merchant Academy in Vallejo, California, in the 1970s,  
13 contributing to cause his mesothelioma. Thus, trial in both cases will involve similar issues, such  
14 as which products contributed to cause Mr. Payne’s disease, the percentage fault of each  
15 Defendant, the nature of Mr. Payne’s damages, and many other issues. Consequently, assignment  
16 to the same judge would “effect a substantial savings of judicial effort.” L.R. 123(a), *see also*  
17 L.R. 123(c).

18 Relating the cases under Local Rule 123, however, merely has the result that both actions  
19 are assigned to the same judge, it does not consolidate the actions. Under the regular practice of  
20 this Court, related cases are generally assigned to the judge and magistrate judge to whom the  
21 first filed action was assigned. Should either party wish to consolidate the actions, the  
22 appropriate motion or stipulation must be filed.

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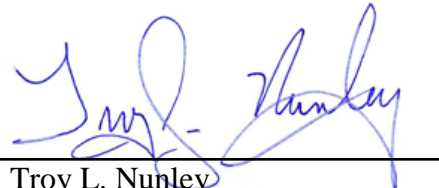
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1 IT IS THEREFORE ORDERED that the action denominated 2:22-cv-00939-JAM-KJN is  
2 reassigned to District Judge Troy L. Nunley and Magistrate Judge Allison Claire, and the caption  
3 shall read 2:22-cv-00939-TLN-AC. Any dates currently set in 2:22-cv-00939-JAM-KJN are  
4 hereby VACATED. The Clerk of the Court is to issue the Initial Pretrial Scheduling Order.

5 IT IS SO ORDERED.

6 **DATED: July 22, 2022**

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10 Troy L. Nunley  
11 United States District Judge  
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